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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2008-355

11 **BERNADETTE LIGHTFOOT**
1144 Viewpointe Boulevard
12 Rodeo, CA 94572

A C C U S A T I O N

13 Registered Nurse License No. 271659

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.

21 2. On or about August 31, 1976, the Board issued Registered Nurse License
22 Number 271659 to Bernadette Lightfoot (Respondent). The license was in full force and effect at
23 all times relevant to the charges brought herein and will expire on December 31, 2009, unless
24 renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

1 4. Code section 2750 provides, in pertinent part, that the Board may
2 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
3 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Code section 2764 provides, in pertinent part, that the expiration of a
5 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
6 against the licensee or to render a decision imposing discipline on the license.

7 STATUTORY & REGULATORY PROVISIONS

8 6. Code section 2725, subdivision (b), states:

9 “The practice of nursing within the meaning of this chapter [the Nursing Practice
10 Act] means those functions, including basic health care, that help people cope with difficulties in
11 daily living that are associated with their actual or potential health or illness problems or the
12 treatment thereof, and that require a substantial amount of scientific knowledge or technical skill,
13 including all of the following:

14 “(1) Direct and indirect patient care services that ensure the safety, comfort,
15 personal hygiene, and protection of patients; and the performance of disease prevention and
16 restorative measures. ¶ . . . ¶

17 “(4) Observation of signs and symptoms of illness, reactions to treatment,
18 general behavior, or general physical condition, and (A) determination of whether the signs,
19 symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (B)
20 implementation, based on observed abnormalities, of appropriate reporting, or referral, or
21 standardized procedures, or changes in treatment regimen in accordance with standardized
22 procedures, or the initiation of emergency procedures.”

23 7. Code section 2761 states:

24 “The board may take disciplinary action against a certified or licensed nurse or
25 deny an application for a certificate or license for any of the following:

26 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

27 “(1) Incompetence, or gross negligence in carrying out usual certified or licensed
28 nursing functions.”

1 8. California Code of Regulations, title 16, section 1442, states:

2 "As used in Section 2761 of the code, 'gross negligence' includes an extreme
3 departure from the standard of care which, under similar circumstances, would have ordinarily
4 been exercised by a competent registered nurse. Such an extreme departure means the repeated
5 failure to provide nursing care as required or failure to provide care or to exercise ordinary
6 precaution in a single situation which the nurse knew, or should have known, could have
7 jeopardized the client's health or life."

8 9. California Code of Regulations, title 16, section 1443, states:

9 "As used in Section 2761 of the code, 'incompetence' means the lack of
10 possession of or the failure to exercise that degree of learning, skill, care and experience
11 ordinarily possessed and exercised by a competent registered nurse as described in Section
12 1443.5."

13 10. California Code of Regulations, title 16, section 1443.5 states:

14 "A registered nurse shall be considered to be competent when he/she consistently
15 demonstrates the ability to transfer scientific knowledge from social, biological and physical
16 sciences in applying the nursing process, as follows:

17 "(1) Formulates a nursing diagnosis through observation of the client's physical
18 condition and behavior, and through interpretation of information obtained from the client and
19 others, including the health team.

20 "(2) Formulates a care plan, in collaboration with the client, which ensures that
21 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
22 protection, and for disease prevention and restorative measures.

23 "(3) Performs skills essential to the kind of nursing action to be taken, explains
24 the health treatment to the client and family and teaches the client and family how to care for the
25 client's health needs.

26 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
27 subordinates and on the preparation and capability needed in the tasks to be delegated, and
28 effectively supervises nursing care being given by subordinates.

“(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

“(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.”

COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

12. On or about May 16, 2005, while working as a nurse in the Same Day Surgery Unit (SDS) recovery room at Alta Bates Summit Medical Center in Berkeley, California, Respondent undertook the care of a 56-year-old post-surgical patient. The patient, W.S.,¹ had been admitted earlier that day as an outpatient for elective laparoscopic bilateral inguinal hernia repair.

13. Following surgery, W.S. was transferred to the Post-Anesthesia Care Unit (PACU) and then to recovery in the SDS. Respondent cared for him in recovery between approximately 1:30 PM and his discharge at 3:00 PM. Upon his transfer from the PACU, W.S.'s pain level was assessed and documented as 8 on a scale of 10.

14. While under Respondent's care in recovery, W.S. appeared to be experiencing severe post-surgical pain that was not relieved by the administration of pain

1. Initials are used herein to protect W.S.'s privacy and that of his family. His full name will be disclosed in discovery, upon request.

1 medication. Respondent did not assess, monitor and document W.S.'s pain level upon admission
2 to recovery, after the administration of pain medication or prior to his discharge. She did not
3 assess and document his vital signs prior to his discharge. At the insistence of W.S.'s step-
4 daughter, Respondent called W.S.'s surgeon. When the surgeon refused to see W.S., Respondent
5 did not bring W.S.'s condition to her supervisor or anyone else up the chain of command. W.S.
6 was discharged in severe pain at approximately 3:00 PM. He died early the next morning from
7 cardiorespiratory arrest due to shock and hemorrhage from his surgical wounds.

8 FIRST CAUSE FOR DISCIPLINE

9 (Gross Negligence: Failure to Assess, Monitor & Document)

10 15. Respondent is subject to disciplinary action for gross negligence pursuant
11 to Code section 2761, subdivision (a)(1), in that she failed to properly assess, monitor and
12 document a patient's pain level and vital signs, as described in paragraphs 12 - 14, above.

13 SECOND CAUSE FOR DISCIPLINE

14 (Gross Negligence: Failure to Advocate)

15 16. Respondent is subject to disciplinary action for gross negligence pursuant
16 to Code section 2761, subdivision (a)(1), in that she failed to advocate for her patient, as
17 described in paragraphs 12 - 14, above.

18 THIRD CAUSE FOR DISCIPLINE

19 (Gross Negligence: Failure to Recognize Signs & Symptoms)

20 17. Respondent is subject to disciplinary action for gross negligence pursuant
21 to Code section 2761, subdivision (a)(1), in that she failed to recognize the signs and symptoms
22 of internal bleeding, as described in paragraphs 12 - 14, above.

23 FOURTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 18. Respondent is subject to disciplinary action for unprofessional conduct
26 pursuant to Code section 2761, subdivision (a), in that she failed to properly assess, monitor and
27 document a patient's pain level and vital signs, failed to advocate for the patient, and failed to
28 recognize the signs and symptoms of internal bleeding, as described in paragraphs 12 - 14, above.

1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 271659, issued
5 to Bernadette Lightfoot;

6 2. Ordering Bernadette Lightfoot to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.
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11 DATED: July 1, 2008
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14 
FOR RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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